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Leonard Law)	
13220 Etta Smith Road UAD)	Order No. 17 -XXX -SW
Summerdale, Baldwin County, Alabama)	
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Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, (2015 Rplc. Vol.), and the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18, (2015 Rplc. Vol.), and the ADEM Administrative Code promulgated thereunder, the Alabama Department of Environmental Management (hereinafter “ADEM” or “the Department”) makes the following FINDINGS:

1. Leonard Law (hereinafter “Mr. Law”) is responsible for the creation of an unauthorized solid waste dump (hereinafter “UAD”) and is the owner of property located at 13220 Etta Smith Road in Summerdale, Baldwin County, Alabama, which is the subject of this Administrative Order.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, (2015 Rplc. Vol.).
3. Pursuant to Ala. Code § 22-22A-4(n) and Ala. Code 22-27-9(a), (2015 Rplc. Vol.), the Department is the state agency authorized to administer and enforce the provisions of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, (2015 Rplc. Vol.).
4. Ala. Code §22-27-2(37), (2015 Rplc. Vol.), and ADEM Admin. Code r. 335-13-1-.03(139) define an “unauthorized dump” as “any collection of solid wastes either dumped or caused to be dumped or placed on any public or private property, whether or not regularly used, and not having a permit from the Department.”

5. Ala. Code § 22-27-4(b), (2015 Rplc. Vol.), states the following: “The creation, contribution to, or operation of unauthorized dumps shall be prohibited, removed, enjoined...”

6. Ala. Code § 22-27-10(b), (2015 Rplc. Vol.), states the following: “The creation, contribution to, or operation of an unauthorized dump is declared to be a public nuisance per se, a menace to public health, and a violation of this article.”

7. ADEM Admin. Code r. 335-13-1-.13(1)(a) prohibits unauthorized dumps.

8. On September 8, 2016, Department personnel conducted an inspection and documented the existence of an UAD located on 13220 Etta Smith Road in Summerdale, Baldwin County, Alabama. Property ownership was determined by a review of Baldwin County records. The UAD consisted of household waste. The Department has determined that Mr. Law is responsible for the creation of the UAD.

9. On September 15, 2016, the Department issued to Mr. Law a Notice of Deficiency (hereinafter “NOD”) regarding the UAD.

10. The Department has not received a response to the September 15, 2016, NOD.

11. On January 27, 2017, the Department issued to Mr. Law a Notice of Violation (hereinafter “NOV”) requiring abatement and closure of the UAD and the submittal of associated documentation, but the notice was returned unclaimed.

12. On March 13, 2017, Mr. Law accepted the January 27, 2017, NOV.

13. The Department has not received a response to the January 27, 2017, NOV.

14. Pursuant to Ala. Code § 22-22A-5(18)c., (2015 Rplc.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person’s efforts to minimize or mitigate the effects

of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. SERIOUSNESS OF THE VIOLATION: Mr. Law did not comply with the requirements applicable to solid waste disposal. The Department is unaware of any irreparable harm to the environment, any immediate threat to human health, or the safety of the public as a result of the aforementioned violation.

B. THE STANDARD OF CARE: Mr. Law failed to abide by applicable solid waste requirements and failed to comply with directives from the Department regarding the proper abatement and closure of the UAD.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has been unable to ascertain if Mr. Law has realized a significant economic benefit as a result of the violation listed above.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: The Department is unaware of any efforts by Mr. Law to mitigate any potential effects upon the environment and human health that may have been caused as a result of the UAD.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Mr. Law does not have a documented history of violations of the applicable requirements of ADEM Admin. Code div. 335-13.

F. THE ABILITY TO PAY: The Department does not have any evidence indicating that Mr. Law is unable to pay the civil penalty.

G. OTHER FACTORS: The Department has also considered the penalty range imposed for a similar violation at other UADs.

Violation Type

Penalty Range for Violation Type

Unauthorized Solid Waste Dump

\$0 - \$25,000

The Department has carefully considered the six statutory penalty factors enumerated in Ala. Code § 22-22A-5(18)c., (2015 Rplc. Vol.), as well as the need for timely and effective enforcement, and has concluded that a civil penalty in the amount of \$5,000 is appropriate for the violation cited herein (see Attachment A, which is made a part of the Department's Findings).

ORDER

Based on the foregoing findings of fact and pursuant to Ala. Code, §§ 22-22A-5(1), 22-22A-5(10), 22-22A-5(18), 22-27-4(b), 22-27-7, and 22-27-11, (2015 Rplc. Vol.), it is hereby ORDERED:

A. That, not later than forty-five days of receipt of this Order, Mr. Law shall pay to the Department a civil penalty in the amount of \$5,000 for the violation cited herein. The penalty shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or any other method of payment acceptable to the Department and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P O Box 301463
Montgomery, Alabama 36130-1463

All checks shall reference Mr. Law's name and address and the ADEM Administrative Order number of this action.

B. That, immediately upon the receipt of this Order and continuing each and every day thereafter, Mr. Law shall cease and desist from operating an UAD.

C. That, within thirty days of receipt of this Order, Mr. Law shall submit a site closure plan to the Department in accordance with ADEM Admin. Code r. 335-13-1-13(2)(b)1. This plan shall include a schedule for site closure completion. Mr. Law shall implement the site closure plan and remove the wastes onsite to an approved landfill unit.

D. That, within thirty days of completion of remediation and closure activities, Mr. Law shall document site closure activities by submitting the following information to the Department:

1. Time period in which the remediation activities occurred;
2. Total volume of waste removed from the property;
3. Documentation that all regulated waste, to include both surface and subsurface waste, was removed from the property;
4. A copy of waste receipts documenting that all regulated waste was taken to a permitted landfill;
5. Photographs of the site taken before and after remediation;
6. Documentation that the site was properly closed to prevent erosion;
and
7. Documentation that the site has been secured to prevent any future illegal dumping.

E. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and, therefore, unenforceable, the remaining provisions hereof shall remain in full force and effect.

F. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against Mr. Law for the violations cited herein.

G. That failure to comply with the provisions of the Order shall constitute cause for commencement of legal action by the Department against Mr. Law for

recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this ____ day of _____, 2017.

Lance R. LeFleur
Director

Attachment A

Mr. Leonard Law
Unauthorized Solid Waste Dump (13220 Etta Smith Road)
Summerdale, Baldwin County, AL

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Creation of a solid waste dump	1	\$4,000	\$1,000	\$0	
TOTAL PER FACTOR		\$4,000	\$1,000	\$0	\$5,000

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$0
Total Adjustments (+/-)	\$0

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$5,000
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$5,000

Footnotes

** See the "FINDINGS" portion of the Order for a detailed description of each violation and the penalty factors.*